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SUBJECT: EU SAYS PROTECTION OF IRAQI REFUGEES SHOULD BE PROVIDED IN
REGION

SUMMARY

1. EU Ministers in the July 24 JHA Council adopted conclusions on Iraqi refugees that underlined the priority of creating the conditions for refugees to go back home and included no call to take in more Iraqi refugees in the EU Member States. The French Presidency reported on the drafting of a European Pact on Immigration and Asylum to be endorsed by EU leaders in mid-October. Ministers discussed plans to create a EU "blue card" setting conditions of entry and residency of non-EU nationals for the purposes of highly qualified employment. They were split on proposals to impose EU-wide penalties on employers of illegal migrants but agreed on the principle of establishing a "European PNR" as well as on the method proposed by the Presidency for agreeing a specific piece of EU legislation in cooperation with the European Parliament. Full text of Council conclusions has been transmitted to EUR/ERA and can be found on the EU Council website (<http://consilium.europa.eu>). END SUMMARY.

RESETTLEMENT OF IRAQI REFUGEES

2. The Council addressed the situation of Iraqi refugees, both in the EU Member States and the neighboring countries. The question had already been raised at the JHA Council meetings in April and June 2008, when some ministers underlined that protection should continue to be provided primarily in the region itself. French Immigration/Integration Minister Brice Hortefeux told a press conference that the German delegation reported on a recent visit to Berlin by an Iraqi delegation led by PM al-Maliki. The Iraqi delegation had brought "some additional elements of information," which required a rewriting of the draft conclusions that had been prepared for this Council meeting. While noting that some Member States already welcome Iraqi refugees within the framework of national resettlement programs, the final version of the Council conclusions said the priority was to create the conditions allowing Iraqi refugees to go back home and included no call for Member States to take in more refugees.

3. German Interior Minister Wolfgang Scha|ble, who had pressed colleagues earlier this year to provide shelter to Christians among refugees, told German reporters in Brussels the Iraqis were now calling on the EU "not to take additional initiatives which would be counterproductive to their efforts." Scha|ble reported that the Iraqi authorities were working on convincing refugees to come back in order to rebuild the country. Minister Hortefeux said the Council would revisit the issue in September. Luxembourg Immigration minister Nicolas Schmit separately told reporters that Commission Vice-President Barrot was planning to visit the neighboring countries (Syria, Jordan) to get a better idea of the problem on the ground (no details of the visit available yet).

IMMIGRATION AND ASYLUM PACT

¶4. Minister Hortefeux briefed the Council on ongoing work on a European Pact on Immigration and Asylum, which was the subject a broad agreement among ministers at their informal meeting in Cannes on July 7-8. The draft Pact, a copy of which was circulated by USEU earlier this month, will be further reviewed at the September JHA Council with a view to endorsement by EU leaders at the mid-October European Council. The draft Pact centers around five key commitments to be fulfilled by national and EU bodies:

-- Organizing legal immigration on the basis of labor market needs and the reception capacities of each Member State, by attracting highly qualified workers and students, and promoting the integration of migrants;

-- Combating illegal immigration by granting case-by-case regularizations, developing cooperation with countries of origin and transit, combating criminal networks involved in trafficking and the exploitation of illegal migrants;

-- Making border controls more effective by developing biometric visas, setting up electronic recording of entry and exit, and reinforcing the EU borders control agency (Frontex);

-- Developing a common asylum policy by establishing a European support office, a single asylum procedure and a uniform status for refugees;

-- Promoting a comprehensive partnership with countries of origin and transit, developing a synergy between migration and development.

¶5. In reaction to criticism by Senegalese FM Cheikh Tidiane Gadio, Hortefeux told reporters the proposed Pact was not "a pact against

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Africa" but "a pact with Africa." In Hortefeux's words, "It is a pact that is balanced and coherent, which promotes immigration that is selected and done in consultation, which means in partnership with countries where migrants are coming from."

EU BLUE CARD

¶6. The Council discussed a draft Directive setting conditions of entry and residency of non-EU nationals for the purposes of highly qualified employment. This Commission proposal, tabled last year, is designed to introduce a flexible, fast track common procedure for the admission of highly skilled migrants into EU territory. Under the proposed scheme, non-EU nationals admitted as highly qualified workers would receive a European "blue card." At his press conference, Minister Hortefeux reported a broad measure of agreement to further work on the proposed scheme, based on three criteria for access by non-EU nationals: a higher education qualification (involving at least three years' study), the pay level (Hortefeux conceded this would be difficult to define because of widespread differences among EU countries) and professional experience. Hortefeux specified that delegations pronounced in favor of introducing the "blue card" alongside national arrangements for issuing residence permits for employment purposes. The "blue card" would "coexist with" but "not replace" the national schemes, he said.

SANCTIONS AGAINST EMPLOYERS OF ILLEGAL MIGRANTS

¶7. In a public debate, the Council discussed a draft Directive tabled by the Commission, which provides for a minimum harmonization of administrative, financial and criminal sanctions against employers of illegally staying non-EU nationals. The Commission estimates there are up to 8 million illegal migrants in the EU-27. In essence, the Commission proposed that all Member States should impose penalties in their domestic legislation against the employers of those non-EU nationals, and apply sanctions effectively. The debate revealed marked differences (generally on a North/South divide) on two questions on which the Presidency sought guidance for further work:

-- Half the delegations, including all Mediterranean countries, backed the requirement for criminal sanctions against employers of illegal migrants. Many others, led by Germany, Poland, Sweden and the Netherlands, resisted the idea. Swedish Minister Billström said the EU should not have the power to recommend criminal penalties and should leave it up to Member States to decide how best to deter the exploitation of illegal workers;

-- The draft's requirement for Member States to conduct checks in sectors most inclined to abuse (construction, hotels, farming) also caused differences. Many delegations argued for a "qualitative" approach and resisted suggestions that the EU legislation should require them to carry out a minimum number of inspections at job sites. German Interior Minister Schäuble uttered a flat "nein," saying: "It's not the number that counts but the quality."

EUROPEAN PNR

18. Rather than engaging in negotiations on the details of the Commission proposal on the use of passenger name records by Member States' law enforcement authorities, the Presidency conducted a discussion on basic questions raised by plans to set up a passenger data recording system for commercial flights. French Interior Minister/Council chair Alliot-Marie told a press conference the Council agreed on the principle of establishing a "European PNR" as well as on the method proposed by the Presidency. This would be based on:

-- A "thematic" approach: working on "concrete problems" raised by the draft: geographical scope (flight to the EU or intra-EU flights), contents of the data, protection of the data, follow-up;

-- The involvement of the European Parliament (EP), data protection authorities and professionals.

19. Taking questions, Alliot-Marie was "not in a position to prejudge" whether the European PNR would use the same data as those retained for the agreement with the U.S. or whether some other data could also be covered by the future EU scheme. Asked why the EP will be associated with the drafting of the proposal (in contrast to the method used for the EU-U.S. PNR agreement), she said: "Because of my idea of democracy." Commission Vice-President Jacques Barrot, who declared himself "favorably surprised" by the ministers' reactions, expressed hope that the Council could adopt the specific piece of legislation in 2009.

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